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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,337	04/17/2000	Klaus-Peter Zeffler	2345/110	4964
7590 KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004				
06/19/2009				
EXAMINER				
PASCAL, LESLIE C				
ART UNIT		PAPER NUMBER		
2613				
MAIL DATE		DELIVERY MODE		
06/19/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/462,337

Applicant(s)

ZEFFLER ET AL

Examiner

Leslie Pascal

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14, 16-23 and 27-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14, 16, 17 and 28 is/are rejected.
- 7) ☒ Claim(s) 18-23 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14, 16-17 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chawki et al (5576875). In view of Shiragaki (5663820)

3. Chawki et al teach a method of transmitting signaling and control information (SDH or SONET) for a WDM system (output of T). He teaches using a terminal (T) to process useful information according to one of encoding (emission in T) and decoding (reception in T). In that he teaches that each of the wavelengths from T uses synchronous frames using TDM (column 2, lines 51-60 and column 3, lines 60—column 4, line 2). In that each wavelength is utilized with TDM SDH signals, he feeds each wavelength as a fundamental wavelength. Further, each station drops/feeds a specific wavelength which could be considered the terminal at a fundamental wavelength at a network terminator. He teaches transmitting collectively a plurality of signals having different wavelengths in an optical fiber (from T onto L, or from S1-S4 onto the fiber). In that he teaches Sonet and SDH, it is obvious, if not inherent that it performs analysis of the signaling and control information in one of the network terminators (s1 or S2 for example) and further network elements (S3 or S4 or reception portion of T). Using TDM to transmit signaling and control information (SDH and SONET, synchronizing signals, column 2, lines 51-60 and column 3, lines 60—column 4, line 2). Although Chawki et al do not teach specifics about SONET and SDH, see column 1, lines 36-45 which teach

that SONET and SDH use time division multiplexing on a single wavelength in order to provide signaling and control information on the signal wavelength. It is obvious, if not inherent that the SONET and/or SDH signals of Chawki et al are TDM signals of the signaling and control information. In that the control information is usable and are separate bits of a signal frame, it is inherent that they can be modulated independently of the useful information. In that SONET and SDH are used, the signals are synchronous and in order for the signals to be useful, they inherently must be identifiable. In regard to claim 16, in that time frames are generally sent at regular intervals and have a specific length, it would have been obvious to send the signals at regular time intervals with a specific length. In regard to claim 17, SDH is usually operated at a clock frequency or integer multiple of 155 MHz.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See column 10, lines 15-18 of Narasimha et al (5828670).
5. Claims 18-23 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Pascal whose telephone number is 571-272-3032. The examiner can normally be reached on Monday- Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, K Vanderpuye can be reached on 571-272-3078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leslie Pascal/
Primary Examiner
Art Unit 2613